

STAND. COM. REP. NO. 1212 -14

Honolulu, Hawaii

March 21, 2014

RE: S.B. No. 1179
S.D. 1
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1179, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COURT ORDERS TO PROVIDE MEDICAL TREATMENT FOR INMATES AND DETAINEES IN CORRECTIONAL FACILITIES,"

begs leave to report as follows:

The purpose of this measure is to improve the current procedures that authorize the Department of Public Safety to petition the courts to obtain orders to provide involuntary medical treatment to certain inmates and detainees.

The measure accomplishes this purpose by:

- (1) Defining specific terms used in the criteria for involuntary medical treatment;
- (2) Providing the department with the flexibility of filing the petition in either the district court or the circuit court and attaching to the petition either an affidavit or a declaration of the examining physician or psychologist;
- (3) Expanding from two to five days the maximum time period between the examination of the inmate or detainee and the filing of the petition;



- (4) Limiting, to only the inmate or detainee and the inmate or detainee's legal guardian or emergency contact, the list of persons upon whom a notice of hearing must be served;
- (5) Authorizing, rather than requiring, the court to appoint a guardian ad litem or a temporary guardian upon the occurrence of specified conditions, and expanding the conditions to include other good cause in addition to the inmate or detainee's inability to participate in the hearing; and
- (6) Clarifying the effective expiration date of the order for persons who return to custody after release.

Your Committee received testimony in support of this measure from the Department of Public Safety and the Department of the Attorney General.

Your Committee finds that this measure allows for a more efficient and responsive court process, enables medical staff in various correctional facilities to provide critical and necessary medical treatment in a more timely fashion, and assists in the improvement of the mental and physical status of inmates.

Your Committee has amended this measure by deleting its contents and replacing it with the substantive contents of its companion measure, H.B. No. 948, H.D. 2, which was heard and passed out earlier by your Committee.

As amended, this measure restores specific provisions that were included in H.B. No. 948, H.D. 2, that:

- (1) Clarify the definition of "danger of physical harm to others" by removing an inconsistent reference to the safety of the inmate or detainee who is the subject of the petition; and
- (2) Change the list of persons upon whom a notice of hearing must be served to include the inmate or detainee and at least one, rather than all, of most of the persons presently entitled to be served, thereby restoring their potential right to seek a delay in the hearing of the petition.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1179, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 1179, S.D. 1, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



